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FEDERAL ELECTION
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BEFORE THE
FEDERAL ELECTION COMMISSION

David B. Coward

Gold Canyon, AZ 85118

OFFICE OF GENERAL
COUNSEL

Complainant,

v.

MUR # 7021

Mr. Paul Raymond Babeu
270 E. Hunt Highway, Suite 16 #103
San Tan Valley, AZ 85143

Respondent.

COMPLAINT

Complainant files this complaint under 52 U.S.C. § 30109(a)(1) against Paul Raymond Babeu for violating the Federal Election Campaign Act of 1971, as amended (the "Act"), by failing to timely file his statement of candidacy for a seat in the U.S. House of Representatives, as described below.

A. FACTS

Mr. Babeu is currently a sheriff in Pinal County, Arizona.¹ On October 5, 2015, he wrote an online editorial in the Arizona Progress & Gazette – with the title of "Big News...I'm in!" – to "announce [his] run for the first Congressional District of Arizona."² He also made this declaration on Twitter: "BREAKING: Excited to officially announce my candidacy for Congress in #AZCD01."³ On that same day, his principal campaign committee, Paul Babeu for Congress, filed a Statement of Organization with the Federal Election Commission (the

¹ Pinal County, Arizona, Sheriff Paul Babeu, <http://www.pinalcountyaz.gov/SHERIFF/ABOUTPCSO/Pages/SheriffPaulBabeu.aspx> (last visited Feb. 21, 2016).

² Sheriff Paul Babeu, *Big News...I'm in!*, ARIZONA PROGRESS & GAZETTE, Oct. 5, 2015, <http://arizonaprogressgazette.com/big-news-im-in/>.

³ Sheriff Paul Babeu, Twitter (Oct. 5, 2015, 6:34 A.M.), <https://twitter.com/PaulBabeuAZ/status/651027600677076992>.

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“Commission”).⁴ Mr. Babeu did not file a Statement of Candidacy on Commission Form 2 on that day.

In fact, Commission records show that Mr. Babeu did not file a Statement of Candidacy until January 31, 2016 – nearly four months after announcing his run – when he filed a Form 2 stating that he was running in Arizona’s Fourth, as opposed to First, Congressional district.⁵ He filed an amended Form 2 on February 4, 2016, this time correctly stating that he was a candidate for the First Congressional district.⁶ According to his principal campaign committee’s recent year-end report, by the day after his formal announcement, Mr. Babeu had accepted contributions in the aggregate in excess of \$5,000; two single contributions alone aggregated above \$5,000.⁷

B. LEGAL ARGUMENT: MR. BABEU FAILED TO REGISTER WITH THE COMMISSION WITHIN FIFTEEN DAYS OF BECOMING A CANDIDATE.

Under the Act, “candidate” means an individual who seeks nomination for election, or election, to federal office.⁸ An individual becomes a candidate whenever he or she has received contributions aggregating in excess of \$5,000 or made expenditures aggregating in excess of \$5,000.⁹ Once a person becomes a candidate, he or she must register and report as such with the Commission within fifteen days.¹⁰

⁴ FEC Form 1, Statement of Organization, Paul Babeu for Congress, <http://docquery.fec.gov/pdf/386/201510059002811386/201510059002811386.pdf>.

⁵ FEC Form 2, Statement of Candidacy, Paul Raymond Babeu, Jan. 31, 2016, <http://docquery.fec.gov/pdf/874/201601319004998874/201601319004998874.pdf>.

⁶ FEC Form 2, Statement of Candidacy, Amend, Paul Raymond Babeu, Feb. 4, 2016, <http://docquery.fec.gov/pdf/597/201602049008439597/201602049008439597.pdf>.

⁷ FEC Form 3, Amend, Paul Babeu for Congress, Feb. 16, 2016, <http://docquery.fec.gov/pdf/734/201602169008472734/201602169008472734.pdf>, at 29 (recording contributions of \$2,700 for the primary and \$300 for the general from Carlo Karim on October 5, 2015); *id.* at 23 (recording contribution of \$2,700 from James Hanak on October 6, 2015).

⁸ 52 U.S.C. § 30101(2).

⁹ *Id.*; 11 C.F.R. § 100.3(a).

¹⁰ See 11 C.F.R. §§ 100.3(a); 101.1(a); FEC Form 2, Statement of Candidacy, FEC, available at <http://www.fec.gov/pdf/forms/fecfrm2.pdf>.

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Though the regulations permit a person to raise and spend money to “test the waters” of a campaign without filing a Statement of Candidacy, this exemption is not applicable to individuals who have decided to become candidates.¹¹ Factors that the Commission considers in determining that a person is a candidate include, but are not limited to, that the individual uses general public political advertising to publicize his or her intention to campaign for federal office, or makes or authorizes written or oral statements that refer to him or her as a candidate for a particular office.¹² Even a person who makes the *private* decision to become a candidate and reaches the monetary threshold is deemed a candidate.¹³

Here, there can be no question that Mr. Babeu became a candidate in October 2015, well before he filed his Statement of Candidacy months later. As described above, he announced in an online editorial on October 5 that he was announcing his candidacy; he publicly announced on Twitter that same day he was excited to “officially announce” his candidacy; and that same day, his principal campaign committee filed a Statement of Organization. Further, Mr. Babeu accepted contributions of greater than \$5,000 by the day after his announcement.¹⁴ Thus, Mr. Babeu had 15 days – until October 21 – at the very latest to file his Statement of Candidacy. Though his principal campaign committee filed its Statement of Organization on October 5, there is no rule allowing a candidate to substitute that form for a Statement of Candidacy. And even when Mr. Babeu did file a Statement of Candidacy on January 31, 2016, it listed the incorrect Congressional district – the correct form was not filed until February 4. Thus, Mr. Babeu was in clear violation of the law.

¹¹ See 11 C.F.R. 100.72(b).

¹² *Id.* § 100.72(b).

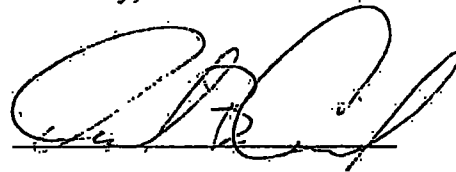
¹³ See FEC Advisory Opinion 2015-09 (Senate Majority PAC and House Majority PAC), at 5.

¹⁴ FEC Form 3, Amend, Paul Babeu for Congress, Feb. 16, 2016, <http://docquery.fec.gov/pdf/734/201602169008472734/201602169008472734.pdf>, at 29 (recording contributions of \$2,700 for the primary and \$300 for the general from Carlo Karim on October 5, 2015); *id.* at 23 (recording contribution of \$2,700 from James Hanak on October 6, 2015).

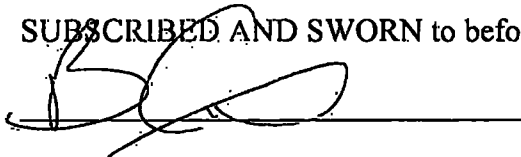
A. REQUESTED ACTION

As shown, Mr. Babeu failed to timely file a Statement of Candidacy as required under the Act and Commission regulations. We thus respectfully request that the Commission promptly investigate these violations and impose penalties permitted by law.

Sincerely,



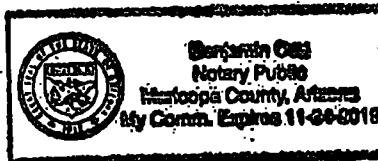
SUBSCRIBED AND SWORN to before me this 24 day of February, 2016.



Notary Public

My Commission Expires:

11.24.2019



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